

RECEIPT # 150  
 AMOUNT \$ 150  
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 LOCAL RULE 4.1 \_\_\_\_\_  
 WAIVER FORM \_\_\_\_\_  
 MCF ISSUED \_\_\_\_\_  
 BY DPTY. CLK. M  
 DATE 11-17-04

**UNITED STATES DISTRICT COURT  
 DISTRICT OF MASSACHUSETTS**

**ELIZABETH L. SHIELDS,**  
**Plaintiff**

vs

**KENNETH VAN VOORHIS, JR.,  
 JOSEPH ELETTO TRANSFER,  
 INC., and AA TRUCK RENTING  
 CORPORATION,**  
**Defendants**

**COMPLAINT  
 AND JURY DEMAND**

**04 12431 GAO**

**MAGISTRATE JUDGE** *Alexander*

**PARTIES**

1. The Plaintiff, Elizabeth L. Shields, resides in West Warwick, Kent County, Rhode Island.
2. The Defendant, Kenneth Van Voorhis, Jr., resides in Attleboro, Bristol County, Massachusetts.
3. The Defendant, Joseph Eletto Transfer, Inc., is a foreign corporation organized under the laws of the State of New York and has a principal place of business at 445 Northern Boulevard, Suite 30, Great Neck, New York 11021.
4. The Defendant, AA Truck Renting Corporation, is a foreign corporation organized under the laws of the State of New Jersey and has a principal place of business at 28-90 Review Avenue, Long Island City, New York 11101.

**JURISDICTION**

5. This action is brought pursuant to 28 U.S.C. 1332 as it involves a motor vehicle accident between a citizen of Massachusetts and a citizen of Rhode Island. The matter in controversy, exclusive of interest and costs, exceeds the sum of Seventy-Five Thousand Dollars (\$75,000.00).

**COUNT I**

**(Elizabeth L. Shields v. Kenneth Van Voorhis, Jr.)**

6. The Plaintiff hereby repeats and incorporates by reference paragraphs 1 through 5 of this Complaint.
7. On June 25, 2003, the Plaintiff, Elizabeth L. Shields, was the operator of a motor vehicle at the intersection of South Main Street and Fisher Avenue in Attleboro, Massachusetts.
8. At the same time, the Defendant, Kenneth Van Voorhis Jr., was the operator of a 2000 Mack Box Truck, MA Registration No. X8304A, at the intersection of South Main Street and Fisher Avenue in Attleboro, Massachusetts.
9. The Defendant, Kenneth Van Voorhis Jr., negligently operated said motor vehicle and caused it to collide with the Plaintiff's vehicle.
10. As a direct and proximate result of the negligence of the Defendant, Kenneth Van Voorhis Jr., the Plaintiff, Elizabeth L. Shields, was seriously injured. The Plaintiff, Elizabeth L. Shields, has incurred, and continues to incur, substantial medical expenses, loss of income, physical pain and suffering, and mental anguish.

**WHEREFORE**, the Plaintiff, Elizabeth L. Shields, demands judgment against Defendant, Kenneth Van Voorhis Jr., in the amount of her damages together with interest and costs.

**COUNT II**

**(Elizabeth L. Shields v. Joseph Eletto Transfer Inc.)**

11. The Plaintiff, Elizabeth L. Shields, hereby repeats and incorporates by reference paragraphs 1 through 10 of this Complaint.
12. At the time and place of the accident to which reference was made, the truck was operated by the Defendant, Kenneth Van Voorhis Jr., in a careless and negligent manner so as to cause said accident.
13. At all material times to the accident in this case, the Defendant, Kenneth Van Voorhis Jr., was a person for whom the Defendant, Joseph Eletto Transfer, Inc., was legally responsible.

14. At all material times to the action in this case, the Defendant, Kenneth Van Voorhis Jr., was employed by the Defendant, Joseph Eletto Transfer, Inc., and was acting within the scope of his employment with the Defendant, Joseph Eletto Transfer, Inc.
15. As a direct and proximate result of the negligence of the Defendant, Kenneth Van Voorhis Jr., a person for whom the Defendant, Joseph Eletto Transfer, Inc., was legally responsible, the Plaintiff, Elizabeth L. Shields, was seriously injured. The Plaintiff, Elizabeth L. Shields, has incurred, and continues to incur, substantial medical expenses, loss of income, physical pain and suffering, and mental anguish.

**WHEREFORE**, the Plaintiff, Elizabeth L. Shields, demands judgment against the Defendant, Joseph Eletto Transfer, Inc., in the amount of her damages together with interest and costs.

**COUNT III**

**(Elizabeth L. Shields v. AA Truck Renting Corporation)**

16. The Plaintiff, Elizabeth L. Shields, hereby repeats and incorporates by reference paragraphs 1 through 15 of this Complaint.
17. At the time and place of the accident to which reference was made, the truck was operated by the Defendant, Kenneth Van Voorhis Jr., in a careless and negligent manner so as to cause said accident.
18. At all material times to the accident in this case, the Defendant, Kenneth Van Voorhis Jr., was operating a motor vehicle that was owned and registered in the name of the Defendant, AA Truck Renting Corporation.
19. There exists evidence that at the time of the accident or collision the truck involved in the accident was registered in the name of the Defendant AA Truck Renting Corporation as owner. Pursuant to M.G.L. c. 231, §85A it shall be prima facie evidence that it was then being operated by and under the control of a person for whose conduct the Defendant AA Truck Renting Corporation was legally responsible.
20. As a direct and proximate result of the negligence of the Defendant, Kenneth Van Voorhis Jr., a person for whom the Defendant, AA Truck Renting Corporation,

was legally responsible, the Plaintiff, Elizabeth L. Shields, was seriously injured. The Plaintiff, Elizabeth L. Shields, has incurred, and continues to incur, substantial medical expenses, loss of income, physical pain and suffering, and mental anguish.

**WHEREFORE**, the Plaintiff, Elizabeth L. Shields, demands judgment against the Defendant owner, AA Truck Renting Corporation, in the amount of her damages together with interest and costs.

The Plaintiff demands a trial by jury on all issues.

Respectfully submitted,

The Plaintiff

By her Attorneys



Sal J. Germani, Esquire

BBO #547991

Germani & Germani, P.C.

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## CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

ELIZABETH L. SHIELDS

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF KENT (R.I.)  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

SAL J. GERMANI, ESQ. - GERMANI & GERMANI, INC.  
50 UNION ST., P. O. BOX 2178  
ATTLEBORO, MA 02703 (508) 222-5858

## DEFENDANTS

KENNETH VAN VOORHIS, JR., JOSEPH ELETTO  
TRANSFER, INC. AND AA TRUCK-RENTING  
CORPORATIONCOUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT BRISTOL  
(IN U.S. PLAINTIFF CASES ONLY)NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE  
TRACT OF LAND INVOLVED.

ATTORNEYS (IF KNOWN)

04 12431 GAO

## II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☐ 3 Federal Question (U.S. Government Not a Party)  
☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- |   | PTF                        | DEF                                   |   | PTF                        | DEF                        |
|---|----------------------------|---------------------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1            | Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3            | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 161 Medicare Act <input type="checkbox"/> 162 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 163 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input checked="" type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury — Med. Malpractice <input type="checkbox"/> 365 Personal Injury — Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID, Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS — Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Arbitration <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 990 Other Statutory Actions

## V. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from another district (specify)  
☐ 6 Multidistrict Litigation  
☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

28 11 U.S.C. 1332

## VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION  
☐ UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ YES ☐ NOVIII. RELATED CASE(S) (See instructions):  
IF ANY

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

11-3-04

SAL J. GERMANI

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

1. TITLE OF CASE (NAME OF FIRST PARTY ON EACH SIDE ONLY) ELIZABETH L. SHIELDS vs. KENNETH VAN VOORHIS, JR.
2. CATEGORY IN WHICH THE CASE BELONGS BASED UPON THE NUMBERED NATURE OF SUIT CODE LIST ON THE CIVIL COVER SHEET. (SEE LOCAL RULE 40.1(A)(1))
- |   |      |   |
|---|------|---|
| — | I.   | 160, 410, 470, 535, R.23, REGARDLESS OF NATURE OF SUIT  |
| — | II.  | 195, 368, 400, 440, 441-444, 540, 550, 625, 710, 720, 730,<br>740, 790, 791, 820, 830, 840, 850, 890, 892-894, 895, 950.                          |
| X | III. | 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310,<br>315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371,<br>380, 385, 450, 891. |
| — | IV.  | 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660,<br>690, 810, 861-865, 870, 871, 875, 900.  |
| — | V.   | 150, 152, 153.  |
3. TITLE AND NUMBER, IF ANY, OF RELATED CASES. (SEE LOCAL RULE 40.1(E))  
NONE
4. HAS A PRIOR ACTION BETWEEN THE SAME PARTIES AND BASED ON THE SAME CLAIM EVER BEEN FILED IN THIS COURT? NO
5. DOES THE COMPLAINT IN THIS CASE QUESTION THE CONSTITUTIONALITY OF AN ACT OF CONGRESS AFFECTING THE PUBLIC INTEREST? NO  
IF SO, IS THE U.S.A. OR AN OFFICER, AGENT OR EMPLOYEE OF THE U.S. A PARTY? (SEE 28 USC 2403)
6. IS THIS CASE REQUIRED TO BE HEARD AND DETERMINED BY A DISTRICT COURT OF THREE JUDGES PURSUANT TO TITLE 28 USC 2284? NO
7. DO ALL PARTIES IN THIS ACTION RESIDE IN THE CENTRAL SECTION OF THE DISTRICT OF MASSACHUSETTS (WORCESTER COUNTY)? (SEE LOCAL RULE 40.1(C)) YES        OR IN THE WESTERN SECTION (BERKSHIRE, FRANKLIN, HAMPDEN OR HAMPSHIRE COUNTIES)? (SEE LOCAL RULE 40.1(D)) YES
8. DO ALL OF THE PARTIES RESIDING IN MASSACHUSETTS RESIDE IN THE CENTRAL AND/OR WESTERN SECTIONS OF THE DISTRICT? YES                       
(a) IF YES, IN WHICH SECTION DOES THE PLAINTIFF RESIDE?
9. IN WHICH SECTION DO THE ONLY PARTIES RESIDING IN MASSACHUSETTS RESIDE?
10. IF ANY OF THE PARTIES ARE THE UNITED STATES, COMMONWEALTH OF MASSACHUSETTS, OR ANY GOVERNMENTAL AGENCY OF THE U.S.A. OR THE COMMONWEALTH, DO ALL OTHER PARTIES RESIDE IN THE CENTRAL SECTION            OR WESTERN SECTION

(PLEASE TYPE OR PRINT)  
ATTORNEY'S NAME

SAL J. GERMANT

**ADDRESS** 50 UNION ST., P.O. BOX 2178, ATTLEBORO, MA 02703

**TELEPHONE NO.** (508) 222-5858

(COVER.SHT-08/90)

## APPENDIX C